

Emergency Rule
LSA Document #08-763(E)

DIGEST

Temporarily adds provisions to exempt licensure requirements under [IC 14-28-1](#) and [312 IAC 10](#) throughout Indiana to facilitate the reconstruction of bridge and culvert crossings, the removal of logjams and debris from the channel of a waterway, and the stabilization and repair of unstable stream banks. Effective October 2, 2008.

SECTION 1. (a) This document applies to each of the following activities:

- (1) The reconstruction of bridge and culvert crossings.**
- (2) The removal of logjams and debris from the channel of a waterway.**
- (3) The stabilization and repair of eroded stream banks.**

(b) Work authorized under this document must be completed before April 1, 2009, unless written approval is obtained from the department of natural resources for an extension of time to complete a project which was commenced under this document.

SECTION 2. This SECTION establishes general criteria for determining if the reconstruction of a bridge or culvert crossing, removal of logjams or debris from the channel of a waterway, or stabilization and repair of unstable stream banks are eligible for a temporary exemption from licensure requirements.

- (1) Work must not be within a salmonid stream designated under [IC 14-25-15-7\(b\)](#) without the prior written approval of the department's division of fish and wildlife.**
- (2) Any authorization is obtained in advance from the United States Army Corps of Engineers, if required under Section 404 of the Clean Water Act (33 U.S.C. 1344) or Section 10 of the Rivers and Harbors Act (33 U.S.C. 403).**
- (3) Any authorization is obtained in advance from the Indiana department of environmental management, if required under any of the following:**
 - (A) Section 401 of the Clean Water Act (33 U.S.C. 1341);**
 - (B) [IC 13-18-22](#); or**
 - (C) [327 IAC 17](#).**
- (4) Work must not be within a natural, scenic, or recreational river or stream designated under [312 IAC 7-2](#).**

SECTION 3. This SECTION exempts the licensure requirements, under [IC 14-28-1](#) and [312 IAC 10](#), for the reconstruction of a bridge or culvert crossing subject to the following conditions:

- (1) The bridge or culvert crossing being replaced was damaged by any means.**
- (2) The waterway opening of the replacement bridge or culvert crossing must be made no smaller and no less effective than before the damage described in subdivision (1).**
- (3) The top of road profile of the replacement bridge or culvert crossing must be made no higher than the top of road profile before the damage described in subdivision (1).**
- (4) Appropriate sediment control measures must be installed to prevent the flow of sediment laden water back into the waterway.**
- (5) Within fifteen (15) days, all bare and disturbed areas must be revegetated with a mixture of grasses and legumes. Tall fescue must not be used under this subdivision, except that low endophyte tall fescue may be used in the bottom of the waterway and on side slopes.**

SECTION 4. This SECTION exempts the licensure requirements, under [IC 14-28-1](#) and [312 IAC 10](#), for the removal of logjams and debris from the channel of a waterway subject to the following conditions:

- (1) Except as provided in subdivision (2), obstructions must be removed through the use of hand-operated equipment, such as axes, chain saws, and portable winches.**
- (2) On a site where the use of hand-operated equipment is determined to be impracticable, heavy equipment may be used for the following purposes:**
 - (A) The removal from the channel of the logjam and associated debris.**
 - (B) The stabilization of eroded stream banks.**
- (3) Except as provided in this subdivision, free logs or affixed logs that are crossways in the channel must be cut, relocated, and removed from the floodplain. Logs may be maintained in the floodplain if properly anchored and/or secured to resist flotation or dislodging by the flow of water and placed in an area which is not a wetland. Logs must be removed and secured with a minimum of damage to**

vegetation.

(4) Isolated or single logs that are embedded, lodged, or rooted in the channel, and which do not span the channel or cause flow problems, must not be removed unless the logs are either of the following:

(A) Associated with or in close proximity to larger obstructions.

(B) Posing a hazard to navigation.

(5) A leaning or severely damaged tree that is in immediate danger of falling into the waterway may be cut and removed if the tree is associated with or in close proximity to an obstruction. The root system and stump of the tree must be left in place.

(6) To the extent practicable, the construction of access roads must be minimized. This does not exempt:

(A) Cutting or otherwise removing more than one (1) acre of trees within a floodway.

(B) Traversing a wetland unless authorized by the United States Army Corps of Engineers and Indiana department of environmental management under reissuance of nationwide permits, 72 Fed. Reg. 11092–11128 (March 12, 2007).

(C) Raising the elevation of the floodplain.

(D) Crossing a waterway.

(7) Where practicable, work must be performed exclusively from one (1) side of a waterway.

(8) To prevent the flow of sediment laden water back into the waterway, appropriate sediment control measures must be installed.

(9) Within fifteen (15) days, all bare and disturbed areas must be revegetated with a mixture of grasses and legumes. Tall fescue must not be used under this subdivision, except that low endophyte tall fescue may be used in the bottom of the waterway and on side slopes.

SECTION 5. This SECTION exempts the licensure requirements, under [IC 14-28-1](#) and [312 IAC 10](#), for the stabilization and reconstruction of unstable stream banks subject to the following conditions:

(1) At least one (1) of the following best management practices must be used to stabilize and repair unstable stream banks:

(A) Live stakes.

(B) Live fascines.

(C) Branch packings.

(D) Tree revetments.

(E) Brush mattress.

(F) Vegetative geogrids.

(G) Live cribwalls.

(H) Lunkers.

(I) A-jacks.

(J) Stone riprap.

(K) Concrete retaining wall.

(L) Gabion retaining wall.

(M) Timber retaining wall.

(N) Sheetpile retaining wall.

(O) Composite retaining wall.

(2) Repaired areas must conform to the contours that existed before the stream bank became unstable.

(3) Repaired areas must conform to the existing bank at the upstream and downstream limits of the project site.

(4) Repaired areas must not be raised higher than the top of bank elevations that existed before the stream bank became unstable.

(5) To prevent the flow of sediment laden water back into the waterway, appropriate sediment control measures must be installed.

(6) Within fifteen (15) days, all bare and disturbed areas must be revegetated with a mixture of grasses and legumes. Tall fescue must not be used under this subdivision, except that low endophyte tall fescue may be used in the bottom of the waterway and on side slopes.

(7) Except as provided in this subdivision, felled trees, brush, and other debris must not be left in the floodway.

SECTION 6. This document expires on March 31, 2009.

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